

Remarks

This supplemental response is further to the response filed on October 27, 2008. Claims 12-29 remain pending. In addition to the argument submitted in the prior response, Applicant requests consideration of the following.

Applicant would like to thank the Examiner for the telephone interview conducted on December 17, 2008 with the undersigned and the inventor, Charles Asplin. During the interview, the Flock reference was discussed in detail, with Applicant explaining how the claims distinguish over Flock. The arguments presented in the interview mirror those presented in the October 27, 2008 response. At the conclusion of the interview, the Examiner requested that Applicant submit a supplemental response highlighting the arguments that were presented. No agreement concerning allowable subject matter was reached.

Flock does not utilize compressed air to raise pavement as recited in claims 12-24. Flock discusses injecting "Plastic cement or concrete may be used, as well as loose materials such as earth, clay, etc." Page 2, lines 13-15. There is no disclosure that compressed air is utilized. The Examiner referenced page 1, lines 22-25 where Flock uses the language "...or otherwise forcing a sufficient quantity of loose or plastic material..." as suggesting the use of compressed air. Applicant respectfully submits that this language does not explicitly or implicitly suggest the use of compressed air. Nor is there any indication in Flock as to how compressed air could be utilized together with his disclosed materials. Flock does indicate that "any substance, which can be forced into position and which can thereafter become substantially incompressible should be found satisfactory. Page 2, lines 15-18 of Flock. However, compressed air cannot become incompressible as sought by Flock. Therefore, compressed air is not taught or suggested.

Flock does not utilize compressed air to raise pavement and sand to fill the cavity. Flock discloses that the end of the filling stem 9 is inserted into the earth underneath the pavement, and that it is the earth that ultimately raises the pavement. This is supported by page 1, lines 88-90, "...and projects downwardly to a predetermined point in the earth"; page 1, lines 95-97, "and the stem subsequently driven down into the earth after its insertion in the hole"; page 2, lines 19-36, "...the material...will fill up any...cavities...and will then cause the surrounding earth to become compacted. When

the surrounding earth has reached a substantially incompressible state it will react against the subsoil and transmit the filling pressures to the lower side of the pavement. As illustrated in Figure 1 by the broken lines radiating from the filling material, an infinite number of pressure forces will be transmitted to points a, b, c, d, e....It is for this reason that the stem 9 must be inserted at a proper predetermined point and to a proper depth".

With respect to claim 25, Flock does not teach the use of a pressurized media to lift a slab upwardly, and a dried material different from the pressurized media to at least partially fill the cavity. Flock appears to inject a single material under the pavement. Flock does not disclose the use of one type of material to lift, and the use of a second, dried material different from the lifting media to at least partially fill.

Reconsideration in the form of a notice of allowance is requested. If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicants' primary attorney-of record, James A. Larson (Reg. No. 40,443), at (612) 455.3805.

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PATENT TRADEMARK OFFICE

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